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TEACHER COLLECTIVE BARGAINING

Proceedings of a Seminar
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Canadian Teachers' Federation
110 Argyle Avenue Ottawa, Ontario
K2P 1B4

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INTRODUCTION

Authorization to hold a small seminar, if there was a demonstrable need, was given by the 1985 Annual General Meeting as part of the Economic Services Program for 1985-86. A decision to focus on collective bargaining topics was made by the Board of Directors at its meeting in November 1985 on recommendation of the 1985-86 Economic Services Committee consisting of: Sheena Hanley (Chairperson) (CTF V.-P.), Malcolm Buchanan (OTF), Ovila Doiron (AEFNB), Roger Grimes (NTA), Allan McDonald (NWTTA) and Nadene Thomas (ATA). The seminar was planned and organized in accordance with suggestions and recommendations of the Committee.

The purposes of the seminar were: (1) to explore recent and emerging trends in teacher collective bargaining across Canada; and (2) to explore alternative approaches to improving teacher working conditions. Recent and emerging trends and issues were dealt with mainly by four guest speakers who spoke on one of three major topics: government intervention in public sector collective bargaining rights and processes; the implications of rights and freedoms under the new Canadian Constitution for collective bargaining; and emerging trends in the United States and possible implications for teacher collective bargaining in Canada. The second theme of the seminar, alternative approaches to improving teacher working conditions, was explored mainly in small-group sessions in which participants discussed their experiences with successful strategies for improving teacher working conditions and others which, based on experience, should be avoided.

This report consists of the welcoming remarks by Frank Garritty, CTF President, the edited transcriptions of the talks by the four invited speakers and the discussion of implications of recent trends in the United States for Canadian teachers by Jim Bethune of the OSSTF. The remainder of the proceedings, including group discussion reports, have been omitted as an economy measure.

Based on the evaluation forms returned by participants and summarized in the Appendix, the seminar fulfilled successfully its major purposes.

Wilfred J. Brown,
Director, Economic Services.

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WELCOMING REMARKS

FRANK GARRITTY
Canadian Teachers' Federation

First of all, I want to bring some words of greetings to each and every one of you. We certainly have a very large contingent here from coast to coast and from the Territories.

As I was driving down to the hotel this morning, I was recalling that it was four or five years ago that I had the opportunity to chair a session similar to this one. We had just seen the introduction of the federal government's 6 and 5 restraint program. At that conference we were speculating about some of the implications that the federal restraint program would have for us in the provincial sector across this country. Since that time, we have certainly witnessed a litany of attacks on collective bargaining in this country, not only in terms of the content of the contracts which many of us are negotiating, but also in terms of the processes. We even have in this room teachers who are still working at the same salary levels as applied in 1982. We have seen teachers signing four year contracts. Most of us have experienced zero per cent increases in contracts. We have seen legislation and imposed guidelines. We have seen the International Labour Organization (ILO) come into this country for the first time and make some decisions and comment on the collective bargaining process.

With the new Charter of Rights and Freedoms, I think we will be looking at bargaining and the collective bargaining process in a different way. Collective bargaining has been the one process which has allowed us to progress as a profession in the economic sense and is one which is of vital interest to us. Historically, we have had to fight for the establishment of collective bargaining rights in this country and we are in the process of reestablishing some of the rights we had enjoyed previously.

At this particular point in time we have an opportunity to share amongst ourselves. A prime focus of most of the conferences and seminars of the Canadian Teachers' Federation is sharing and learning from each other. I look forward to the proceedings over the next two days as we look for some light at the end of the tunnel and as we examine some of the new trends in bargaining. I know it will be a most enlightening experience for all of us. Welcome to everyone. It is good to see you all here. I wish you well and look forward to the next two days.

GOVERNMENT INTERVENTION IN PUBLIC SECTOR BARGAINING: IS THERE LIGHT AT THE END OF THE TUNNEL?

DR. GRAEME H. MCKECHNIE
York University

You are at a double disadvantage today. First of all, you have an economist talking to you and it is well known we can be very precise in our recommendations and predictions, but many of them never work. Secondly, you've got someone who teaches teachers. If you go back to that old saw: "Those who can, do; those who can't, teach," etc. So be warned.

There is a third problem and that is the dilemma I faced when analyzing the topic I was asked to discuss, "Government intervention in collective bargaining: Is there a light at the end of the tunnel?" The letter sent from CTF asked me to talk for up to 40 minutes and then answer questions. The problem I face is not with the topic, but what to do with the other 39 minutes after I tell you: "No". So, I am going to try and define the tunnel and find out whether or not there is even an end to it, let alone a light at the end.

I take as a given that there is going to be government intervention in public sector bargaining. I hope to make the reasons clear as I go. I think if we are looking for a time when we will have no government intervention in the public sector, then it will not happen in our lifetime.

What is the tunnel we are looking at and what seems to be the end point? We can begin with the current round of government intervention which starts in the mid 1970's and continues through to the present time. There are two sets of hypotheses that have been generated, one could be called the "doomsday hypothesis" whereas the other is more optimistic. (For a full discussion of these see: M. Thompson and G. Swimmer, Conflict or Compromise, Institute for Research on Public Policy, 1984.)

Back in the late 1960's and certainly the 1970's, across Canada and in most provinces, we found a change in governments' traditional approach to public sector organization and there emerged not only the right to bargain collectively, but in certain sectors the right to strike. In some cases public employees were not allowed the right to strike, and disputes were to be resolved through compulsory arbitration. Clearly however there was the establishment of a framework for collective bargaining within which public sector employees could begin to negotiate. The doomsday approach postulates that in the 1980's, a major change has come upon us.

First of all, we have some very specific interventionist legislation. It is not the kind of legislation that simply says: bargain collectively, use various dispute resolution systems and if you go on strike, the government will look at the particular strike before deciding whether or not to act. Rather, we find that we have a series of wage controls beginning in 1975 with the AIB and following through in the 1980's with "6 and 5" and the various provincial acts which followed. Secondly, we have the current situation in Newfoundland, which has been experienced in other

jurisdictions, where certain employees find themselves defined as critical and their ability to strike taken away or curtailed. Thirdly, and of course the government has always had this ability, there has been the enactment of back to work legislation. I think most provinces have seen that in one way or another in various aspects of the public sector.

The doomsday hypothesis says the 1970's and 1980's experience is a long range trend. What we are seeing is a major shift in government policy. If you hold to the doomsday hypothesis you ask: "What does the government want to do? Does it want to wrest control? Personally, I don't think so. The more relevant questions are: Is the government attempting to affect the behaviour of the parties and in what way is bargaining behaviour affected?

The government doesn't worry much about the private sector. The private sector seems to take care of itself. If one takes a look at strike statistics, wage settlements and the kinds of contracts the private sector has been generating over the past four or five years, in terms of government perception, that hasn't been where "the problem" lies. So I don't think the government is attempting to pass legislation to convince the private sector generally to do something. Is it attempting to convince public sector employees to do something? I think arguments can be raised that they may be only one target.

One possibility is that the government is attempting to pass legislation to affect what management is doing. If you look at the public sector and especially education, the government, which is the funding agency by and large, is not the manager of the system. The school boards are the managers of the various systems and in many provinces those school boards are autonomous. They are taxing authorities and certainly the experience in Ontario is that they can set mill rates. They may get some opposition from their local councils, but basically they have been able to pass tax increases. There isn't the kind of control which the government has over its own departments, whether it be federal, provincial or municipal. The question is whether intervention is a long run phenomenon and an attempt at behaviour modification. The behaviour modification is partly on the managerial side and partly on the employee side and it is really only in the public sector.

The second hypothesis, the optimistic hypothesis, also finds some strong support. The optimistic hypothesis is that what we have seen in the 1980's is merely a reflection of some rather serious economic shocks that began in the 1970's and are still working their way through the Canadian economy. They are working their way through our economy much more severely than through the United States economy or other OECD nations. That means you have to go back to the economic indicators to find out what these particular shocks were and how the Canadian economy responded.

To do that let us first consider the backdrop of the legislation and I will stay within Ontario because I know it best. If you look at the 1970's through the 1980's, in education, we have Bill 100, the School Boards and Teachers Collective Negotiations Act. In that Act there is the

right to strike and a variety of dispute resolution techniques. So, the framework was put in place and it really hasn't been touched very much since the Act was first passed. Why then would the government attempt in Ontario or at the federal level to introduce, through legislation, a controlling feature? In the 1980's looking at Canada, using very generalized figures, in comparison to many of the OECD nations we find that we had a variety of economic shocks from which Canada has not yet fully recovered. The optimistic hypothesis suggests that the legislation that we see as we come into the 1980's will be ad hoc and will pass as the economy begins to strengthen overall, not just in particular areas. Certain provinces have much more positive economic indicators than others, but overall the legislation we see is just ad hoc and will disappear.

It is hard to say which hypothesis will hold true. I would like to talk a little bit about four areas which are important to analyze in order to determine which hypothesis will hold true. The first one is the antecedents, the legislative change; secondly, the actions which have taken place; thirdly, the effects; and fourthly, I will put my crystal ball on the table and try to see what is going to happen.

The antecedents are pretty clear. If you will allow me all of the looseness of the term public sector, and by that I mean the federal, provincial and municipal governments, health care, education, fire, police, etc., when you add up all the people who provide service to the public, the public sector has been one of the largest growing sectors in the Canadian economy and indeed it is likely going to be the largest employment sector. Also, if one takes a look at trade union and professional association statistics, it has been the largest growing set of organizations on that side of the bargaining table. In terms of proportion of trade union membership, the public sector represents about 12 per cent in 1961 and if you take a look at that same set of figures in 1981, it is 38 per cent. That is a tremendous increase in the space of 20 years. It is obviously a very large group of organized workers who are in this sector in the economy. As a result, to suggest that the government will not be involved is to simply turn a blind eye. Clearly, it is going to be involved as an employer, but it is also going to be involved as the proponent of the general framework and, if things go wrong, the proponent of what it sees as solutions to specific problems.

Secondly, we have such a varied pattern of labour relations across the country that the government is going to be involved in certain areas much more deeply than in others. To make a broad sweeping statement about the intervention pattern will cause some difficulties, but very clearly there is a choice at the federal level. Unions can go arbitration or conciliation and strike and that choice is well known. In some provinces public sector employees have the right to strike and in others they do not. One of the antecedents for government intervention is the fact that almost without exception, across Canada public sector employees are represented at the bargaining table. Whether you want to call it free collective bargaining or restricted collective bargaining, certainly they approach the bargaining table in a way that gives them a voice. In the United States we see a variety of different patterns. In Florida, for example, as I understand it, once the legislature and the boards of education make their first offer, the teachers have two weeks to accept it. If

they don't accept the offer, it becomes law. One can hardly say that is collective bargaining. We don't face quite that, but clearly we face a variety of patterns and the government is going to be involved in a variety of different ways.

Thirdly, there have been shocks to our economy. Coming into the 1970's the economy experienced a variety of inflationary shocks partly driven by oil prices, partly driven by costs, partly driven by our own competitive problems and for a variety of other reasons. It was the kind of inflation for which the economics fraternity could not provide ready answers. We had inflation and high unemployment going hand in hand and we couldn't seem to solve them. They were real shocks. If you take a look at some of the figures that were published throughout the 1970's and the 1980's comparing Canada with the other major OECD nations, you will find that we retained the highest unemployment rate from the early and late 1960's right through to the mid-1980's. We start off in the 1960's with an unemployment rate of about 3 per cent, almost the same as the U.S. and the rest of the OECD, and in 1983 we were at almost 12 per cent whereas the other OECD nations were at 8 per cent.

Not only was our unemployment rising, our employment growth was not keeping pace. In 1983 our employment increased by .7 per cent and in the U.S. it increased by 1.3 per cent. So, a major trading partner was growing at a much faster rate and its unemployment dropping. As we went into the 1980's our cost of living, measured by the Consumer Price Index was continuing to rise at a rate faster than either the U.S. or the OECD nations. It has been dropping recently, but certainly as we turned into the 1980's we were leading in that indicator. Finally, we were lagging in real growth as measured both by Gross National Product and Gross Domestic Product. Canada experienced approximately a 3 per cent increase compared to the U.S. which was approaching 4 per cent.

When you add all of those up, and are sitting in political office it is easy to ask: "How do I get this back into balance? How do I get the equilibrium restored? How do I get the competitive nature back?" The first solution you may look at to try and cure the shock is economic controls and of course, that is what we saw in the mid-1970's. During that same period of time, mid- to late-1970's and early 1980's, we had one of the worst strike records of any western nation in terms of number of person days lost, number of strikes and length of strikes. It doesn't take much of a leap for the politican to say it has to be the labour movement. They are striking, the strikes are longer, our unemployment is higher, our wages are going up and our cost of living is going up. It has to be the labour movement. I would say that it is not out of the realm of possibility for any kind of policymaker to sit down and say: "I have to look at legislation which will affect the way the labour movement bargains."

At the same time, coming back to the management side, government intervention will have an effect on the way management bargains. In the public sector you often find top management, the ultimate authority not at the bargaining table. In education, some trustees are at the bargaining table, but many are not. If you look at the community colleges in Ontario, very often the people at the bargaining table may not be the

personnel people on the management side. I can speak from some experience having been a mediator and fact finder in community college bargaining in Ontario. The management team at the bargaining table was made up of a variety of representatives of the colleges, some of whom were personnel people but some were appointed by the president of the college and were not directly linked to personnel. Behind that group was the Council of Regents, the President of the Council of Regents and the Minister, respectively, and those people were not at the bargaining table. On the union side you had a variety of people representing the 22 colleges and behind them was the union membership. It is well known that the employees complained that the "real" power was not at the bargaining table. As a result, I think government intervention is designed to get at the management side as much as the labour side. Very clearly the policymaker in looking at some of those shocks to our economy has to reach the conclusion that the labour movement is one of the targets, because the public sector is so large and its rate of growth has been so rapid but the management side is also a target.

Fourthly, one can not discount as an antecedent the notion that the policymaker will attempt to reflect what he or she sees as the changing mood within the country. It is hard to measure this and I don't want to spend a lot of time on it, although I think it can be rather critical. There are changing perceptions of what the labour movement can or can not do and should or should not be doing. Going back to President Reagan's handling of the air traffic controllers, while we did not have that kind of response in Canada, the government was looking at specifying as essential, certain numbers of air traffic controllers in Canada. In the Newfoundland situation right now, there is a specification of who might or might not be essential within the public sector. There is some behaviour change or change of mood and we have to recognize this -- although the surveys conducted over the last three or four months and reported in the media demonstrate that the majority of Canadians find the labour movement is positive and useful, those same surveys show that they believe there should be some curtailment of the freedom of the right to strike. If a politician wanted to reflect that mood, some kind of intervention could be indicated. Indeed, the politican may want to change the behaviour exhibited in collective bargaining.

To cast that in an academic framework, we can look at a number of different studies to see the tremendous interrelationship of what one researcher Alton Craig has called the Environmental system with the Industrial Relations system. There is no question that the environmental systems in the economy - political, legal, economic, social or socio-economic -- are going to have an impact on how labour and management generate their goals and behave within the industrial relations framework. Whatever is perceived in the economic, political or legal system will be translated into the industrial relations system. Whatever is perceived as coming out of the industrial relations system will feed back into the environmental systems. Therefore, if what is being perceived is that the public sector is growing rapidly and is enjoying in some cases higher benefits than the private sector, that will come back into the environmental system and start to affect the political, legal and economic situation. Therefore, those antecedents begin to point to some kind of government intervention. That it occurs should not be surprising. What

it is going to be and the effect it will have are really the questions. One of the big fights will be to keep the intervention down, not to say when it will go away. That will be important from both sides of the bargaining table.

Following the antecedents are the actions. We have the AIB in 1975, we have the "6 and 5 program", i.e., the Public Sector Compensation Act, and within the provinces, companion legislation which mirrored the 6 and 5 legislation. In Ontario, we had IRB and "son/daughter" of IRB, Bill 179 and Bill 111. I will spend a little bit of time on those. The other provinces have a variety of legislation ranging from the British Columbia legislation, which had more "teeth" than in Ontario in terms of ability to pay, and two other provinces where the legislation hasn't been quite so strong in terms of its intervention. Very clearly the legislation which occurred in the 1970's and 1980's has been of two types. The two types are not mutually exclusive. The one is purely economic and the other is institutional. If you affect the economic side, you will affect the institutional side to a certain degree.

I put AIB, 6 and 5 and to a certain degree Ontario's Bill 179 or the 9 and 5 in the economic type because, although the impact is also felt in the bargaining process and structure, initially it simply says the parties will get 5 per cent, 6 per cent, 9 per cent or whatever increase the legislation specifies. You simply take a definition of compensation, apply a per cent figure and that is the end of it.

The effect on the level of wages is not the only effect. In Ontario, in some cases the effect of the IRB and the 5 per cent limit was to have teacher groups say: "Well, I can't see much point in bargaining, wages will increase by 5 per cent, so I guess the contract rolls over." Some boards of education took the same view. The teachers came in saying we have problems and the board said: "Well, what is the point in bargaining? We've got 5 per cent, roll the contract over, this can be a short session and you can get it over with in 5 or 10 minutes." So even the economic legislation will have an effect on the bargaining process, often a deleterious one, because one side or the other goes away and says: "Well, we never talked about anything and we should have. We wanted to and they didn't."

The institutional type is Bill 111 in Ontario and the legislation in British Columbia where you begin to get requirements that the arbitrator or fact finder must consider the employers' ability to pay when fashioning a resolution to a dispute. It is not simply a question of economics, but a question of looking at the bargaining process. In addition, you will get direct back to work legislation under this institutional framework, for example, legislation such as the kind that stopped one of the teacher-board strikes in Ontario where the mediator's proposal became the legislated agreement. That was a first in Ontario. It affects not only the economic side, but the process as well. As a mediator in disputes, one of the questions we can be faced with as a result is: "Will you ever make a mediator's proposal and will it go public? We want a statement from you saying it will not go public." I don't think anybody has agreed to such constraints, at least none of the people I know. In any event, institutional legislation affects the process directly, although it has an economic spillover.

As well, the process is affected because the parties begin to approach it in a different way if the government has ad hoc legislation in its hand. To remove the right to strike or to affect the way the right to strike will be exercised or to affect how the parties deal with one another will affect how each side approaches the bargaining table, irrespective of the economics.

Against the backdrop of the antecedents and the actions, what are the effects of some of this legislation? I am not going to spend time on the pure economic effects. There are a couple of recent articles written in this area -- one by John MacCallum in a recent issue of Public Policy, Vol. XII:1:133-147, "Two Cheers for the Anti-Inflation Board". He makes the point that the AIB, as does most legislation in terms of wage controls, has a positive economic impact. It does what the legislators wanted it to do. The analysis that MacCallum goes through in his article demonstrates that if you want to measure AIB controls against wages and wage performance, it was successful. It did not allow wages to go as high as they would otherwise have gone and in terms of straight economics affect the the economy and its competitiveness with its trading partners. That is what it was designed to do and it did that.

The converse though is not proven. It did not drive wages lower than they should have been. The concern, of course, with AIB-style legislation is that it will drive wages too low, not that it will not let them get too high. MacCallum's argument is that in terms of economics, wages did not get as high as they otherwise would. Institutionally it may not be a success, but economically it is.

Let's take a look at the effects of two or three of these actions. First of all, the notion of ability to pay and the notion of a guideline. Let me use Ontario's Bill 111 as a framework. The interesting part of this Bill is that an arbitrator or a fact finder had to look at the ability to pay in light of existing provincial fiscal policy. The Treasurer at the time indicated that existing provincial fiscal policy was 5 per cent, but no definition was provided in terms of ability to pay. If you read through the Act it doesn't define ability to pay, it says consider it. Secondly, it becomes rather obvious that the Act is a shield for the employer, not a sword for the employee. The employer knows there is a ceiling. The employee knows he/she can't get more than 5 per cent and you can't beat on the employer's door. The real question then becomes is 5 per cent too high, too low or about right?

A variety of experiences then took place. The first arbitration award which came out under that set of guidelines was between the 30 participating hospitals in Ontario and the Union of Operating Engineers. The arbitrator made a statement in that award that 5 per cent was the fiscal policy. It was the maximum. It was an overriding criterion. An award shortly afterwards between OPSEU and the Ontario Government, under the Crown Employees' Bargaining Act, took a very different point of view. The arbitrator said that the ability to pay factor was only one consideration and should be given primacy if all of the data were there to support it. Martin Teplitsky in an address to the Canadian Bar Association defined ability to pay in the public sector as desire to pay. Ability to pay in the private sector can be fairly well defined. There is a market,

cost of production, sales figures, competition and you can begin to do some measurement. In the public sector, in his view, ability to pay simply means whether or not the employer wants to pay. Now one has to add to that, if the employer "pays", there may be an effect on employment, programs, services, etc. It is not a question of only ability to pay but what is the corollary action or effect?

If one reads all of the awards and fact finding reports which came out in the Province of Ontario, it can be seen that arbitrators and fact finders became very creative under the legislation. Fact Finders canvassed the Board of Education's ability to pay and stated that their recommendations fell within that. Arbitrators took the same view in terms of ability to pay, stating that a review of the employer and the union arguments and data demonstrated that the X per cent awarded falls within the guidelines. That was whether or not the arbitrated or recommended increase was 3, 5, 10 or 17 per cent. We became very creative in that respect. The costing of proposals was also a responsibility of arbitrators and fact finders under Bill 111 as was the costing of the award. Sensibly, arbitrators and fact finders left to the parties in the first instance, the task of costing the two proposals and providing the IRB with the data. If no agreement was reached, the arbitrator remained seized. As a result, compliance with the legislation did not create major hurdles since the parties themselves continued to provide the details.

It could be argued that Bill 111 and the IRB had some positive effects. If you compared the private and public sectors at that time the 5 per cent was ahead of many settlements in the private sector. If you look at "back to work" legislation, Premier Davis ordered the TTC workers not to go out on strike just prior to the Papal visit and they in fact got more by threatening and not going on strike than many people felt they would get if they walked out on strike. So it is a double-edged sword, but clearly the effects of Ontario's ability to pay statement weren't quite as severe as first feared.

What is the prognosis? I have chosen two sectors: Education, with the right to strike and a variety of dispute mechanism situations; and Health Care with compulsory arbitration in the Province of Ontario.

First of all as an interest arbitrator and in reading interest arbitration awards, one of the concerns that many of us have about compulsory arbitration is that it is somewhat incestuous. We all have a major criterion -- comparability -- but with whom is a particular group to be compared? That applies to both the Education and Health Care sectors. We don't have educators in the private sector. Almost all of the education institutions in the country are public sector. We don't have the same sort of private-public mix as in many of the American States so that comparability raises problems. Cost of living is another criterion and most arbitrators use that. There is no economic rationale to use ability to pay in the public sector unless it is a proxy for demand.

In straight compulsory arbitration or interest arbitration the available evidence suggests that wages likely increase a little faster than they would under free collective bargaining and non-monetary items don't change quite as rapidly because arbitrators are inherently conservative

about the new items partly because some of those new items are ones that are properly left to the parties. Even in cases in which new directions are taken, there does not seem to be much spillover into the private sector.

Currently in the Health Care industry in Ontario a number of arbitrators are beginning to award extended maternity benefits, an additional wage benefit over and above what UIC pays. I don't believe there would be more than a handful of private sector contracts that have that feature. If the Health Care industry is beginning to move that way, the government may be getting concerned. That is one area where the arbitrators have begun to make an inroad into what I would call a non-monetary area even though it is a cost item. The Health Care sector creates a problem because the government hasn't got control of either the bargaining or the arbitration process. The arbitration process may get into areas that the private sector is not getting into and in fact other areas of the public sector are not getting into under free collective bargaining. However, I don't see intervention to constrain the arbitrator jurisdiction or the scope of bargaining because of the low spillover factor.

In Education, fact finders have had the ability to pay criterion in front of them ever since 1975 although in a different framework. Under Section 21 of Ontario's Bill 100, a fact finder must take into account the costs of the board's and teachers' proposal to the board. It also has to take a look at the interest of the public in terms of those proposals. That is stated in the legislation. Most fact finders don't go quite that far, but certainly it is there. As the government begins to look into the educational sector, it already has an Act in Ontario where ability to pay is written down. Also, if you look at the Province of Ontario, starting in 1975 it is not that wages have increased so much more rapidly, but that the teachers have been able to maintain a reasonable wage package and improve working conditions at a time when we have had declining enrolment. If you add to that the fact that the government as the granting agency can't get at the management side of the system in a direct fashion at the bargaining table, you then begin to get the condition for intervention if the policymaker views the system as "out of control".

The intervention I see in the future, and I am going to take the more optimistic hypothesis, is that the government will likely involve itself less in the institutional side of the intervention model, that is, directly affecting the collective bargaining process. It will likely do that only if it sees what it considers to be a particularly sensitive or difficult situation and it will do so situation by situation. I do see the government becoming more involved in the economic side and by that I mean the grant structure for Education and Health Care. We have seen that in Ontario and we are going to see it, I am sure, in most other provinces if it already hasn't been seen.

If you look at the grant structure for hospitals and boards of education, the amount of money provided has been increasing, but the percentage increase has been going down. Now in Ontario, the government may begin to distribute money to these sectors in very specific "earmarked" amounts. You may have a certain amount of money for a specific purpose, but not for general purposes. Universities will receive money to build a particular

building or purchase a particular computer, but it can't be used for anything else. Hospitals will receive money to add a particular wing, but not for operating revenue. The government is affecting that side of the equation and I think it will always affect that side of the equation.

What that means for collective bargaining is that there will be pressures on both sides of the table. There will be reduced flexibility on the management side as the grant income declines, especially where there is no ability to go out and get more money. On the teachers' side of the table you will be reacting against that flexibility in terms of what you can bargain over, not legislatively but because of flexibility problems. If the government goes the next step, which is the specification of a dollar amount, then the bargaining chip is gone and the negotiators on both sides don't have a bottom line to play with. It is a shifting line. It means that you go more into the non-monetary areas of the collective agreement and that is a different bargaining process from "simple" dollars.

So, I would say the prognosis is that there isn't a light at the end of the tunnel. Realistically, the tunnel is very long. The government is going to keep on intervening. I don't think the doomsday hypothesis will really come to pass, although the government is intervening on the economic side. The more optimistic side is that it will begin to take its hands off the collective bargaining process directly, but clearly the economic side will be affected.

Thank you.

BARGAINING EQUALITY: THE IMPLICATIONS OF THE CHARTER AND HUMAN RIGHTS STATUTES FOR COLLECTIVE BARGAINING

SHELAGH DAY
Canadian Human Rights Reporter

It is a pleasure to have the opportunity to discuss equality issues with teachers. I have been a teacher myself, and was also fortunate as a student to have wonderful teachers who have made a difference to my life. As we work towards equality in Canadian society, there are no more important contributors to this development than teachers.

Historical Development of Equality Rights in Canada

It is important to place equality rights issues and our new Constitutional guarantees in historical context. Both our legal protections and our understanding of their meaning have developed rapidly over the last forty years.

Human rights protections in Canada are a direct response to our experience of the Second World War. Canada and other countries around the world learned from that War that human rights protections were essential, that there must be law to protect people from discrimination on the basis of race and religion. The social and economic discrimination, the internment, forced labour and the millions of deaths of the Holocaust shocked the world. (It is useful to note that as well as Jews, the victims of the Nazi regime included members of ethnic and cultural minorities, disabled people, homosexuals and political dissidents.)

With eyes opened to the horrors which bigotry can cause, Canadians came home at the end of that War and began first of all to remove discriminatory legislation from the books. Canada at that time had not extended the franchise to all groups in our population. Asian Canadians, Doukhobors, Indians, and Inuit people still did not have the vote. We had learned that this was not a civilized way for a society to behave in the 20th century.

There were also restrictive covenants in effect in some communities in Canada which prohibited "Jews and persons of other objectionable nationality" from owning property. We began in the late 40's and 50's to remove these pieces of legislated bigotry.

Canada then, like other Western countries, began to take positive steps forward, not just removing discriminatory legislation, but introducing legal protections for human rights. The right of access without discrimination to the basic essentials of living -- work, shelter, public services -- was the principle underlying our new human rights legislation. Our first understanding, of course, was that we needed to protect Canadians from discrimination on the basis of race and religion. Later, as we have become more sophisticated, we have gradually added to our laws protections from discrimination on the basis of sex, physical and mental disability and marital status. Shortly, I believe, we will add sexual orientation to the list of prohibited grounds of discrimination.

In the beginning, our understanding of the nature of discrimination was primitive. We thought that discrimination was a matter of bad hearts, a matter of evilly-motivated people committing acts of ill will against others. We believed that discrimination was an intentional act, motivated by hatred or bigotry, carried out by one individual against another. As a consequence of this understanding, we established our law as an individual complaint-based system.

However, administrators of human rights law soon found that it was difficult, if not impossible, to address discrimination if the task was to investigate the motivation of persons against whom complaints were made. In early discrimination cases, respondents defended themselves successfully by testifying that they did not intend to discriminate. For the victims of discrimination, the motivation of the respondent was essentially irrelevant; it was the deprivation of the opportunity to which that person had a right in law which was important. When we defined discrimination by its intent, we were not successful in dealing with it, or remedying it.

Next, we defined discrimination by the treatment individuals were accorded. Instead of considering intent or motivation we began to assess whether individuals of different races or sexes received equal treatment. Equal treatment is still a paradigm of discrimination which we apply on a regular basis, but we have learned that it also has shortcomings as a complete definition of discrimination.

Identical treatment of men and women or of disabled and non-disabled persons can in some important instances result in discrimination, rather than eliminate it. For example, a requirement that municipal police officers be between 5'8" and 6'2" and weigh 165 pounds has the effect of excluding approximately 90 per cent of Canadian women from eligibility for those positions. Men and women have been accorded identical treatment, but the standard favours men and disfavours women because there are significant differences in the stature and weight of men and women. Where requirements such as this cannot be shown to be essential to job performance, they have been found by courts to be discriminatory.

For disabled persons also, if equality simply requires identical treatment we will leave disabled people at the bottom of the stairs. A Saskatchewan case recently taken to the Saskatchewan Court of Appeal deals with just this issue of accessibility. In this case, the disabled complainant went to a movie theater in his wheelchair. The only place from which he could view the movie in his wheelchair was from in front of the first row of seats. At the first level, the court did not view this as discrimination. It found that the facility was offered to the complainant on the same basis that it was offered to every other patron and if he could not get the same enjoyment from it because he was in a wheelchair, that was his problem. He had received identical treatment to other patrons, and that, said the Queen's Bench judge, was all that was required.

On appeal, this judgement was overturned. The Court of Appeal rejected this analysis, ruling instead that even where there is identical treatment if it results in a disabled person not being able to participate in the same way, discrimination has occurred.

This marks the most recent shift in our understanding and definition of discrimination. We have learned that the truest test of discrimination lies in the results or the effects of any policy, practice, or act. The Supreme Court of Canada in O'Malley v. Simpson-Sears has endorsed this understanding of discrimination, ruling that discrimination need not be intentional to be in violation of human rights law, and that it is by its effects that we know discrimination.

Neutral-seeming policies and practices, applied to all groups equally, can still be discriminatory if they have differential effects, as do height and weight requirements which are based on male standards and building designs which assume that users are not disabled.

In addition to these shifts in our understanding of the nature of discrimination, we have also learned that if we are going to effectively address discrimination in Canada, we cannot do that by dealing with discrimination on a one by one, case by case basis. The deepest and most pervasive discrimination in our society occurs through the regular operation of our major institutions of employment and education. Traditional assumptions and stereotypes about appropriate roles for men and women, people of different races, and disabled people are inherent in the normal practices of our places of work and learning. If we are to make real changes in the opportunities of those who have historically been excluded or confined to limited spheres, it is necessary to address this "systemic discrimination", consider the operation of these institutions as a whole, and examine the effects of ordinary operations, policies and practices. It is this "systemic discrimination" and its effects on minorities and women as classes of people which is increasingly the focus of our attention in the human rights field.

Class, rather than individual complaints, will become increasingly important in my view, and the emphasis on affirmative action programs to address and eliminate systemic discrimination will also intensify.

Before considering the new Constitutional guarantees and their interplay with statutory human rights protections, let me make brief note of some important developments in human rights case law, which as teachers' representatives you should be aware of.

In the recent Supreme Court of Canada decision in Craton v. Winnipeg Schools Division No. 1, the Court ruled that human rights legislation has natural primacy over other laws. Even when human rights law do not explicitly state that they take precedence, the Court considers that the subject matter of human rights law is so fundamental that they are the first of our statutory laws. The effect of this ruling is that if, for example, there is a conflict between a provision of an Education Act and a provision of a human rights law, the courts will consider the human rights law to have natural primacy.

Another decision important to you is that of the Supreme Court of Canada in Ontario Human Rights Commission v. Borough of Etobicoke, a case which deals with mandatory retirement of firefighters at age 60. In that case, the Borough of Etobicoke faced with complaint of discrimination because it required firefighters to retire at age 60 instead of 65, which

is the legal age at which workers could be forced to retire at that time, used its union contract as one of its defenses. Since the retirement at age 60 had been negotiated and it formed a clause in the union contract, the Borough argued that it should not be found to be in violation of the Ontario human rights statute. The Supreme Court rejected this argument, ruling that employers cannot contract out of human rights protections. When the law states that a person has a right to continue in employment without discrimination because of age until age 65, that right cannot be negotiated away.

Finally, the case of Action Travail des Femmes v. CN Rail deserves comment, since as I have indicated earlier I believe we should expect to see more complaints of this kind.

The CN Rail case is a breakthrough case for Canada because it is the first major systemic discrimination case. An appeal on the remedy will be heard by the Supreme Court of Canada this fall and the resulting decision will be significant for the further development of the law.

The case deals with the persistent exclusion of women from entry level labouring jobs with CN Rail. A series of complaints brought by individual women and a complaint of systemic discrimination filed by a Quebec women's organization, Action Travail des Femmes, alleged that women were discriminated against by CN Rail in the St. Lawrence region (Quebec) by being required to have welding certificates when they were not needed for the job, by being directly discriminated against by foremen who did not want women in their areas, by being steered to secretarial positions, by being refused applications at the door, and by being sexually harassed after hiring.

When the hearing on these complaints was held, in addition to the evidence of the individual complainants, statistical evidence was presented which showed that women held only 0.7 per cent of the blue collar jobs with CN Rail in the St. Lawrence region. While blue collar jobs are still non-traditional jobs for women, Canadian women nonetheless hold approximately 17 per cent of such jobs nationwide.

The Tribunal accepted this statistical evidence as demonstrating a pattern of exclusion of women, and ruled that CN Rail had discriminated against women on a consistent, systemic basis. It ordered CN Rail to alter its hiring practices and requirements.

The most significant part of the remedy was the order that CN Rail proceed to hire one woman in every four new hires until such time as the representation of women in CN's blue collar jobs reached the national level of 17 per cent. It is this part of the remedy which CN Rail has appealed to the Supreme Court of Canada. If the Court upholds it, other Canadian employers can expect to face similar court-imposed remedies designed to redress a lack of representation of women and minorities. If the Court upholds it, it will certainly provide further incentive for employers to institute affirmative action programs in order to avoid complaints and remedies of this scope.

New Constitutional Guarantees: Their Application and Interplay with Statutory Protections

In 1985, equality guarantees were raised to the level of supreme law with the introduction of Section 15 of Canada's new Constitution. This is a very significant step, for a number of reasons.

First of all, equality guarantees are now part of the basic political and legal document of our nation. This is the document in which we set out our most basic and valued principles, and its inclusion here gives equality a high place on the national agenda.

Secondly, there will be an interplay between statutory human rights protections and Constitutional equality guarantees and the effect, in my view, will be to strengthen the statutory protections.

Thirdly, the language of Section 15 is broad and open. Equality-seekers, anxious to ensure that the Constitutional guarantees would be effective, lobbied successfully for strong legal language. Canadians are now guaranteed equality before the law, equality under the law, equal protection of the law and equal benefit of the law.

In addition to these four pillars of interpretation, we have protected equality both on some named grounds -- race, national or ethnic origin, colour, religion, sex, age or mental or physical disability -- and on unnamed grounds as well. The protection is understood to be open-ended because Section 15 reads "... equal benefit of the law without discrimination, and in particular, without discrimination based on race ...." Because of this phrasing, experts agree that Section 15 can be used to protect persons from discrimination which occurs for reasons other than those named, for example, sexual orientation, political belief, or criminal record.

Finally, Section 15 makes affirmative action programs constitutionally valid. Some people do not understand yet that the argument as to whether affirmative action is itself discrimination is legally closed in Canada. Section 15(2) of the Charter states that programs designed to overcome disadvantages that individuals and groups experience because of their race, sex, or disability are not violations of the equality guarantees. Such programs are understood by our Constitution to be a means of achieving equality, not a violation of it. This makes Canadian law significantly different from American law on this issue.

In short, we have a strong, open Constitutional guarantee of equality which endorses affirmative action and will, we hope, infuse new vigour into statutory protections of equality as well.

Let us turn to the question of the application of Constitutional and statutory protections to the education system.

Both statutory and Constitutional equality guarantees apply to the education system in its capacity as employer and in its capacity as educator.

In human rights legislation in every jurisdiction, there is a specific prohibition of discrimination in employment. There is also, in every human rights statute, a specific prohibition of discrimination in services which are customarily available to the public. In addition, in every human rights statute there is a prohibition of discrimination by unions and professional associations. These sections prohibit discrimination with respect to membership, negotiation or any representation of members. Under human rights legislation then, the education system as employer and as educator are directly covered, as are teachers' federations.

Section 32 of the Constitution states: "This Charter applies (a) to the Parliament and government of Canada in respect of all matters within the authority of Parliament ... and (b) to the legislature and government of each province in respect of all matters within the authority of the legislature of each province ...." There is considerable argument as to what the effect of this Section is. Some say the Charter applies broadly and this Section simply clarifies that it does apply to governments. Others say the Charter was intended specifically to apply to governments and not to "private" institutions or acts.

Because this issue is unresolved, let us consider the narrowest application. There appears to be agreement that the Charter applies to governments in both their law-making and their administrative capacities. The Charter certainly applies to all the laws of Canada. Every institution, then, that is a creature of federal or provincial statute is within the reach of the Charter.

Even the narrowest interpretation of its application gives the Charter a fairly long arm. It reaches to the education system, since education is a matter within the authority of the legislature of the province and is governed by statute and regulation. School boards are creatures of statute. It is safe to assume, though only the courts can tell us for sure, that the Charter will apply to the Canadian education system, and that it will apply to the education system as employer and as educator.

There is uncertainty, however, as to whether the Charter applies directly to unions or teachers' federations. I am sure you are watching with interest and some trepidation the progress of the Levigne case challenging the use of union dues on the basis that the guarantee of freedom of association should allow Mr. Levigne to refuse to have his union contributions put to political ends with which he does not agree.

In British Columbia, a lower court recently ruled that a union is not within the reach of the Charter when it is spending the dues of its members. This court found that the union is a private creature when it is taking its own members' money and making decisions about its use. Until this issue is adjudicated by the Supreme Court of Canada, the final answer about the application of the Charter to union activities is uncertain.

The fact, however, that the courts may consider a union a private creature when it is dealing with the dues of its members does not necessarily mean that the courts will consider the union a private creature in all of its functions. When the union is performing other functions, such

as participating with a school board in determining the conditions of work and of education, the court may well consider that at that time the union is performing a public function in a public system and, like the school board, should be within the reach of the Charter. This can, at this time, be only speculation.

What we do know is that the school system as employer and educator is covered by both statutory and Constitutional equality protections. The union or federation is covered by statutory protections and Charter guarantees may apply to the union or federation in some circumstances.

Equality Issues in Our Schools

1. Employment

Of first importance are affirmative action programs designed to remove practices and policies which have discriminatory effects and to increase the representation of women and minorities in teaching positions throughout the school system.

A pamphlet produced by the Federation of Women Teachers' Associations of Ontario sets out the representation of women in senior positions in schools in Ontario, in the positions of principal, vice-principal, superintendent. The underrepresentation of women in these positions is no surprise, but it is surely time for it to be actively addressed.

In addition to considering the representation of women in senior positions and throughout the teaching levels, it is essential in my view that active measures be designed to address the lack of representation of native, minority and disabled people in the Canadian teacher workforce.

Teachers should be demanding strong affirmative action programs which will set clear goals and timetables for breaking the barriers for women and for drawing in teachers from all groups in the Canadian population.

Another employment issue of importance is sexual harassment. Contract clauses dealing with sexual harassment are essential protections. Substitute teachers and those teachers who wish to move from part-time teaching to full-time teaching are particularly vulnerable to sexual harassment.

Sexual harassment does happen. Nobody likes to talk about it. The people who are sexually harassed are often too frightened, too vulnerable and too embarrassed to reveal it. But it does occur, and it is important for unions to protect their members and to provide a mechanism for making complaints and resolving them without damaging their work environments or their rights to employment.

The third area of importance is pensions and benefits. There is a panoply of issues here, including pension plans which produce smaller monthly benefits for women than men, maternity protections, and coverage for pregnancy and pregnancy-related illnesses under disability insurance schemes. There is also the issue of whether benefits are available to common law spouses. All of these issues can be a matter of complaint under human rights legislation immediately.

2. Education

When we consider the school system as educator, there are many equality issues which, in my view, can be the subject of both human rights complaints and direct challenges under the Charter. Here are just a few.

While progress has been made, we cannot yet declare that our schools are free of sex bias. The streaming of girls away from maths and sciences, sex-stereotyped counselling, sex-stereotyping in texts and discriminatory behaviour on the part of teachers persist. Girls' participation in sports is also an issue. Their access to boys-only teams, where there is only one team, and their access to sports opportunities which are funded and equipped at equivalent levels as boys' sports opportunities are both issues which can be litigated.

If we are concerned about equality it is important to think about what girl children are learning from the school environment. Do girls come out of school with a belief that they are equal? Or do girls still come out of school with the conviction that there is a particular place in the world that is assigned to them, and that that place is lesser.

For Indian children in Canada there is also a multiplicity of problems. The most important is that Indian children are simply not surviving the school system. The dropout rates are staggeringly high. Indian children simply cannot and do not participate in our school systems on the same footing as other children. It will be surprising if, over the next ten years, there are not legal challenges brought by Indian organizations against the school system to contest this failure.

There is also the question of the streaming of black children into slower classes and non-academic programs. Again, this is a basic issue of equality in education. Statistical evidence is available to confirm that this pattern of streaming exists and persists in schools systems in certain parts of Canada where there are substantial numbers of black children. This kind of evidence lays the foundation for a systemic complaint.

The integration of disabled children into our school systems raises many issues also. It is important that these children be integrated and not banished to separate worlds. But it is equally important that the special needs of these children be accommodated so that they can fully participate. Dumping disabled children into classrooms without needed support does not serve the child and does not satisfy the goals of full participation and equality.

Our school system is special in that it is a place where employment equality issues and education equality issues intersect in a singular way. The school itself teaches children an enormous amount about the world they are living in. If, in school, they see that men have the positions of authority, that there are no Indian, black or disabled people who are teachers, they learn that they are living in a world where equality is not a reality, and not being striven for. Perhaps the most important thing about our new Charter is that it contains a vision of equality which forces us to think towards the future. We need to teach our children in

such a way that we are working towards making that vision a reality. That means having a teacher workforce which is truly representative and representatives of teachers who are willing to make equality an issue.

Bargaining Equality

There is a range of reasons for making equality issues a significant part of bargaining. Firstly, there are direct, self-interested reasons. In order to preclude complaints which may be brought against the federations, it is important that you take an active role in ensuring that your agreements meet the developing standards of human rights legislation and the Charter. It is also, for reasons of self-interest important that teachers be involved in designing and implementing affirmative action programs for their school systems in order to ensure that they meet the real needs of each institution and are effective. Additionally as a matter of the self-interest of the women members of the federations, it is time for the representatives of teachers to take an active role in creating equality. The many women who are teachers in Canada need their federations to help create equality for them in the education system.

Secondly, however, the work of teachers, by its very nature is forward-looking. It is important to be responsible to the future of the children by bargaining those things which will help them be equal and grow up to have equality in their own lives.

Collective bargaining is the most important record of what any union stands for. It is the most practical forum. It addresses the basic matters of working conditions and the functioning of the system. What is presented at the bargaining table is the most significant statement unions make about your collective values.

Far from being a threat, equality protections should be understood to be tools in your hands to assist you to represent your members well and to ensure that you have the conditions necessary to create equality for the children you teach.

NEW TRENDS IN COLLECTIVE BARGAINING AND COMPENSATION*

MARILYN RAUTH
American Federation of Teachers

I bring you greetings from the 620,000 members of the American Federation of Teachers. Today I would like to talk about salary and compensation systems in the context of the educational reform movement that is going on in the States and the attempts to professionalize teaching. We teachers are acting professionally day in and day out as you do but we have a history of teachers rarely being treated as real professionals either in compensation, working conditions or in the status they are provided within the community. I am hoping that I won't disappoint you in that I am going to try and keep statistics to a minimum and talk about ideas and the politics of education that affect greater participation for teachers in decisionmaking, their status worthy of the importance of their job, and then, as I said, compensation and fringe benefits.

There is no question that collective bargaining in the past thirty years has accomplished a great deal for teachers in the United States. When we first started bargaining we essentially had no rights. Salaries were much lower than they are today. By acting collectively, teachers have been able to increase those salary levels, improve fringe benefits dramatically, remove many of the onerous non-teaching tasks for which they were responsible, put limitations on class size and have a much greater voice within their communities and within the school system.

In 1980 the Administration came out with a report entitled A Nation At Risk. It has been followed by probably 30 or 40 additional reports on education reform. A Nation At Risk contained many things that the AFT had been calling for for years. It said you had to reduce paper work, reduce class size, increase teachers' salaries dramatically and it went on and on. There were 36 specific recommendations, most of which we agreed with. There was one particular recommendation that said we should operate on the basis of performance-based pay. Well, that was a signal to many to become very distraught because to them it meant merit pay, and certainly there were many, including the President of the United States, who picked up on the merit pay issue.

Well, the AFT had a choice at that point. We could simply say we are against merit pay. There might be some other things that this reform movement could propel us into which would be pretty risky business and many that would be negative in terms of teacher rights and sound educational policy. However, we looked at that list of recommendations and said: "Wait a minute. There are a lot of things here that we really want to get for teachers and for education." There was something different here from past reform movements in that the teacher was not being made the scapegoat. The people on these task forces were truly interested in education, were reasonable and could be reasoned with.

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*Edited transcript of remarks.

We looked at the polls. What have the polls told us about what the public believes in terms of investing more money in education through increased taxes to pay for higher teachers' salaries and increased funding for various educational programs? Whether they were local, state or national the polls consistently said one thing. When anyone asked the public if they would increase taxes to pay more for education, what do you think the overwhelming response was? No way! They didn't want to raise their taxes, right? But when that same group of people were asked: "Would you increase taxes to pay more money for education if you could be assured that you would get greater quality for that money?" the response was totally reversed. They were absolutely willing to make that investment.

For the naysayers I would tell you that all you have to do is look at the increased expenditure for education. From the 1920's to the 1980's it has gone up consistently. The thing we are concerned about is that from the 1960's when teachers' salaries and benefits comprised about 50 per cent of the educational expenditure it is now down to a little over 40 per cent. We are losing ground. Teachers' salaries, in terms of real purchasing power, have declined 12 per cent in the last 12 years and 20 per cent in the last 20 years. That is with collective bargaining. So we looked at this situation and said: "Wait a minute. The old approaches by themselves are not working."

To give you another example, the research on class size says that the critical break points in terms of class size making a difference in student achievement are 5, 10, 15 and 19 depending on the grade levels. Through collective bargaining we have been chipping away class sizes of 40 to 45 students down to 35, 32, 30, 28 or 25. In the best circumstances, we are usually at 25 to 28, not even approaching the critical break points.

Since we are not being successful then we asked ourselves why we were so locked into doing what hasn't been effective? There is no question that collective bargaining is the foundation of this union's work, but what if we looked at new constructs for teaching and new ways of getting certain professional perquisites for teachers? Let me talk about that a little bit and also give you one more bit of background which is prevalent in only a couple of provinces here in Canada right now, but which will be affected by our circumstances in the States.

We are beginning to experience an incredible teacher shortage. I am sure you have heard about this. Already teachers are being drawn away from British Columbia by recruiters in California and other western states. It is estimated most conservatively that 250,000 new teachers will be needed in the United States in the next five years. One million teachers, half of the current teaching force, will have to be replaced in the next 10 years. That is a lot of people. Yet if you look at the teacher education programs, very few people are choosing teaching as a profession. There are entirely new opportunities with better salaries, better working conditions and higher levels of self-satisfaction open to bright capable people now that women and minorities have those roads open to them. We are now starting to get an increasing number of students from the bottom quartile of the graduating high school classes. That means

that the profession as a whole is going to suffer more and more in the future, educational outcomes are going to be less and less, and the public confidence in and consequently public funding of education are going to decline.

We have to do something significant about this. The natural tendency of our school boards and our states in times of shortage is to grant emergency certification or waivers to certification requirements. So if they stick a feather in front of somebody's nose and it moves, they say: "Ah, we've got a body here. We will take you and certify you as a teacher." We say that teaching should be more than that. We are going to suffer from that for decades to come if we allow it to take place. Yet how do we avoid it? If students show up on the doorstep schools are not in the position to send them home again. We have to take them in. Someone has to be there to babysit if not to provide education. We are taking the position that babysitting is not enough, but how are we going to get around that fact? How are we going to have qualified teachers in these jobs?

We decided that reform was risky business, but we were going to go for it because the alternative is worse. The automobile and the steel industries believed nothing would ever change and look at what happened to them. They became dying industries just trying to get back on their feet. How are they getting back on their feet? They are looking at the issues of standards, quality and greater worker participation in decisionmaking. We want to go that route. We want to get advantages for teachers which collective bargaining alone has not been able to provide them.

We could stand up in front of teachers and say: "Look at what is happening with reform." I want to be very honest with you. Almost inevitably in the first couple of years state legislatures ran to get on the band wagon and they overly prescribed things that teachers were going to have to do. They got into mandating career ladders and developing new evaluation systems for teachers, many of which are horrible.

At the same time, however, the board raises came across for all teachers. In Tennessee all teachers received a 10 per cent salary increase; in Georgia, 12 per cent; in Texas an increase of $170 dollars a month; and in Alabama non-tenured teachers received 5 per cent and tenured teachers, 15 per cent. Added to that we have career ladder increases of usually from $3,000 to $7,000 added across-the-board. However, I am going to be honest again. Tennessee, Georgia and a lot of these southern states had salary levels that were so low that these increases don't even begin to bring them up to the average teacher salary, even at the top levels. They are playing a tremendous catchup game, but without this movement, these jumps never would have been made. Teachers in those southern states would still be starting well under $10,000 and after a lifetime of experience being lucky to make it up to $20,000 or $25,000. That is not a profession. That is not the way you bring quality people into teaching and produce quality education.

Looking at that situation we said: "Perhaps we shouldn't go along with this. There are going to be things that happen which we aren't going to like." Remember, however, that in negotiations we don't always get

what we want. We could stand up in front of groups of teachers and say: "We don't want career ladders. We don't want to look at anything being done any differently in the schools. We believe that all teachers should be making $50,000 to $70,000." They would all applaud and cheer us on. But we would be hypocritical. We would be lying. Looking at the economics of it, if we gave each of the 2.2 million teachers a $1,000 raise, it would cost $2 billion and it wouldn't mean a thing. $1,000 is not an incentive to keep teachers in teaching or attract anyone into it. If we gave every teacher a $10,000 raise, that might mean something. Yet $10,000 is not enough to get the average teachers' salaries to the level at which they would compete with business and the other professions. So, what are we going to do? Are we going to go out there talking about the impossible dream or are there some new ways of trying to increase teachers' salaries that are affordable and are a political reality?

We looked at a number of things. One argument that kept coming back about career ladders and going off the single salary schedule was that not just a few teachers or even a substantial percentage, but all teachers should be given the wherewithall to become really effective teachers. No one is going to argue with that. But we looked at one fact: we already have a very transient teaching force. Fifty per cent of the people who enter teaching in the United States leave within the first five years. Among those are some of the brightest people who come into the profession. That says that dedicated career teachers are being held back in their salaries and benefits because we are supporting a group of transients who are in and out like a revolving door. Perhaps it is time to look at the career teacher and say that these people deserve some recognition for the effort they have put into developing a very sophisticated set of skills.

Let's look at career ladders in a little different way. We don't want merit pay. We know that is based on favouritism, on patronage. If you reward only a few people or give incentives which are so small that no one cares about them, you are simply disrupting the school system. It will not accomplish any positive goal. However, let's look at a total restructuring of the school, which provides different career lines for teachers, different career opportunities and different decisionmaking powers, which totally revamps what we have been doing.

Teachers are in classrooms that are boxed up into little cellular divisions of 45 to 55 minutes apiece. They have little say in the scheduling of students. Except for some science labs which may be two hours, everything is allotted the same amount of time, regardless of how much time might be optimal for teaching that particular topic or concept. If teachers were really treated as professionals, if they could put their own knowledge about what constitutes effective education to work, why not allow them greater autonomy in terms of instructional and curricular decisionmaking. Why not have these people, directed by career level professional teachers, decide how to break up the school time in terms of teaching. Why not allow teams of teachers to oversee the development of students, to assess their needs, plan their instructional program and follow those students for periods longer than one year. Instead of our practice of grading several times a year why not break that grading down into much shorter periods so we catch students' problems immediately and can do something about them. We could have remediation developed by

teachers who know enough that when one approach doesn't work, to try a second, third, fourth or fifth until the key is found which will unlock that student's learning problems and open up real educational opportunity.

We are playing with ideas and I think that is the significant thing here. We took a look at all of our positions and decided that each one of these had to be revalidated on the basis of whether or not it made educational sense. If we sit down and reason with people, we believe that they will be reasonable with us.

I want to go back to salaries for a minute. The average teacher salary in 1984-85 was $23,572. In 1985-86 it was $25,151, which was almost a 9 per cent increase. This is as a result of reform and new money being infused into the educational system. That is much higher than the increases we were experiencing without the reform movement. The average beginning salary of teachers in 1984-85 was $15,483, which was a 7.2 per cent increase over the preceding year. In 1985-86, it was $16,693, a 7.8 per cent change. Many school systems and states are trying to raise their beginning salaries to anywhere from $18,000 to $25,000, otherwise teaching will continue this recent pattern of getting students who have not shown the best academic prowess. They must reach those levels to compete with business and other professions. The average top salaries were $30,402 in 1984-85 and $32,552 in 1985-86, a 7.1 per cent increase. Now we have reform groups such as the California Commission on the Teaching Profession and the latest Carnegie Report saying that career teachers ought to be making on an average $70,000 to $75,000. That means many could be making much more. Some of our top districts are paying between $55,000 and $60,000, but that is very rare. Tops are usually in the high $30,000 or somewhere in the $40,000 range.

I notice that Canadian salaries have increased dramatically over the last number of years, but yet you face the same problems we do when you compare teachers' salaries to those in other professions. As the States start to compete with the provinces, paying higher salaries and improving working conditions to lure teachers, you will face some of these same problems. It should provide real leverage for you to attempt to make teachers' salaries and benefits comparable to those in other professions. Teachers' average salaries, those who are not at the top of the career ladder scales, should be comparable to accountants. I think you have done some research on this as well. It is a mid-level professional compensation. That means these teachers would be making in the $45,000 to $55,000 range.

As I mentioned before, it will not be possible to pay all two million teachers at those levels. If we are judging on the basis of expertise, it shouldn't be possible that everyone qualifies for this. We also have to look at restructuring the schools in the sense that, while there are career teachers who are making many more decisions and leading group participation of various levels of teachers and instructors, that we have ways of bringing in more paraprofessionals to help teachers with their jobs. Already we are bargaining paraprofessional salaries that are topping $22,000. We believe that educational technology could help avert just bringing in warm bodies.

We think that class size changes could have substantial impact. For example, we have negotiated reductions in class size, but haven't come close to the point which will make a difference, so we started looking at uniform class sizes. You will not have the resources available to get class sizes down to 10, 15 or even 19 in every class in every school in the country. What are we going to do about this? Why should we have uniform class sizes? Are there some things which can be done in large groups? For example, with the most elementary technology we could send a large group of students into an auditorium to watch a film on Canada. They can spend an hour learning about Canada from a film supervised by aides and learn more than I as a teacher can tell them in two or three weeks. In the meantime, that frees teachers to spend time with very small groups, either one on one or small numbers of students, working on fractions, reading and writing or critical thinking skills. If teachers are in charge of how grouping will be done and if basic class size parameters are protected through collective bargaining, we feel there is no problem with exploring that type of innovation. It might do more for teachers in terms of class size than collective bargaining could possibly do over the next 50 years.

We are looking into new things such as restructuring the career and raising teachers' salaries by giving teachers the opportunity to choose either 10, 11 or 12 month time tracks. There are many teachers moonlighting. Almost 1 per cent of teachers have second jobs during the school year. That doesn't even include summer employment. If they had the opportunity to work throughout the year yet not be penalized if they chose not to, we feel it would contribute to salary increases.

Another thing involved in career ladders are proposals by the reform movement for education indexes. We think it is one of the most exciting ideas to come along in a long time. Not that it is new, but it is who is saying it. Business, legislators and governors are saying that for each school in this country we should publicize, for example, the amount of resources put into the school, the textbooks and instructional materials available, the condition of the facility, the number of teachers who are leaving every year, and so on, the input measures which go into making that school a good learning environment. While there might not be sanctions provided immediately along with publication of this education index, I think a great deal of public pressure could be brought to bear if they could compare the quality of learning in one school with the tremendous neglect in another making it impossible for teachers to produce the desired results. That is another plus coming out of reform and one which we think will be a reality.

In thinking about any differentiation of career opportunities a major problem is evaluation. How do you evaluate effective teaching? A lot of people say: "It can't be done. Teaching is an art and there is no way we can distinguish one level of teacher from another." In fact that has been the basis for the single salary schedule for a long time and rightfully it was our position. However, there have been some new developments. In the past the research on teaching was absolutely useless to us. Researchers came up with theoretical constructs of what ought to work in the schools but had little idea of how schools actually worked. As a result many things were perpetrated upon the schools and teachers which made no sense

whatsoever educationally. They were disasters. About 20 years ago researchers decided to go into the schools and look at what more effective teachers actually did. So, coming out of the profession itself is a body of knowledge which says there is no one right way to teach, but there are some guidelines which tell us that in certain situations with certain types of students certain approaches will be more effective than others.

If we want to protect certification, if we want to tell the public that not every educated person who has great knowledge of subject matter is a teacher, but a teacher has a set of very complex skills and certification means something, then you have to be able to combine the clinical experience of teachers over years of practice with this research base and provide a standard for the profession. Not simply in one city or in one province but throughout, teachers themselves will say that to be licensed and certified as a teacher we expect that it means something. It may mean one thing at the entry level, another thing at mid-level career and still another thing at the professional career level.

That makes sense to us. If we can't do that then there is no sense trying to call ourselves a profession at all. If you don't believe it can be done you have to know that it wasn't until the 1930's that the medical profession actually defined their standards and assured those standards through licensing. As a result you see what has happened with their compensation levels. They did not always have the benefits they now have. We believe that the same can be done in teaching, but the teachers will have to take responsibility for standards to get the salaries and the status for which we are striving.

Negotiating peer review is a very controversial topic. A lot of people say it develops a conflict of interest for the union. If teachers are evaluating other teachers, how is the union going to go out and protect everyone who is paying dues to them? In Ohio, for example, one bond issue after another was being defeated; the administration, the school board, the teachers, the union, the Toledo Federation of Teachers, were all fighting with each other and school funding was rapidly disappearing. The union finally said: "This is doing none of us any good. The public thinks we are all a bunch of bums. We are not getting any financing. Something has to change". They were concerned about the quality of the new people coming in from the teacher education schools so they decided to take responsibility for asserting certain standards within teaching in this school system.

They bargained a program whereby intern consulting teachers were to be chosen by a committee, half made up of administrators and half of union representatives. Teachers would be released full time for up to three years. At that point they had to go back to the classroom. If at any time any of these consulting teachers applied for an administrative position, they were automatically relieved of their duties as a consulting teacher and someone else replaced them. These consulting teachers spent the first year with beginning teachers, spending hour after hour in observation, feedback, coaching, demonstration and documentation. They would meet several times a year with this joint union/administration committee and would go over the teacher's progress, document strengths and weaknesses and at the end of the year the joint union/administration committee

made a recommendation as to whether that beginning teacher should be dismissed as unsuited to the teaching profession or continue to a second year of probation. During the second year the beginning teacher was evaluated only by the principal who then determined at that point whether or not they should continue. During the first year, the teachers had total responsibility for judging the instructional prowess of the beginning teacher. The principal looked only at non-teaching responsibilities.

The quid pro quo was that teachers with serious, not marginal, instructional problems were recommended for intervention by a committee made up of the school principal, the union building rep and about 4 or 5 teachers. He or she would receive even more hours of assistance from a colleague who wanted that person to succeed, not as so often happens from an administrator who goes in on Friday and makes up a list of 35 things that are wrong with that teacher's teaching which must be corrected by Monday. This person continues working with the teacher as long as they feel progress is being made or until they feel there is no longer a problem. At the end of the time they submit a written report saying that there is no problem or that they have done as much as possible and feel that there is unlikely to be further benefit from their assistance in this classroom. The school system then decides whether or not to begin dismissal proceedings.

That is the extreme of peer evaluation. I want you to know that studies have shown that, although a couple were dismissed, on the average every one in that system, from beginning teachers to tenured teachers, have given it their full support. They are proud that their union is supporting professional standards. They believe it is much more helpful than any other type of assistance they've received in the past. There are other locals who have negotiated peer assistance plans where teachers go in and help their peers, but are not actually part of the evaluation process.

We are not supporting one or the other. We are saying that if we are going to raise teachers to the level of real professionals and give them the salaries accorded real professionals, the union and teachers will have to accept greater responsibilities in the professional area. There will be tradeoffs. If the same old thing continues the teacher will be looked upon as a technician, will be paid as a technician and have little authority in decisionmaking. We won't go very far and people will continue to say when asked what they do: "Oh, I am just a teacher." We think the day for that is over. Much more can be accomplished by combining collective bargaining with a totally new look at the structure of teaching, of schools and of compensation systems.

EMERGING TRENDS IN COMPENSATION AND COLLECTIVE BARGAINING

JOHN P. YRCHIK
National Education Association

In the past several years, the National Education Association has been barraged with proposals to change the prevailing system of compensation, the structure of the teaching profession, and the standards of the teaching profession.

Coming for the most part from state policy-makers and legislatures, proposals possess potentially far-reaching consequences for collective bargaining in public education. State mandates for changing teacher compensation interfere directly with bargaining in every bargaining local. Efforts to change the structure of the profession would similarly have far-reaching implications for local bargaining efforts.

I would like to talk about the NEA response to recent educational reform efforts as well as point to some new directions in collective bargaining. Since NEA policy can't be adequately understood apart from the policy-making process of the organization or the educational reform movement itself, I'd like to briefly touch upon these subjects.

The principal policy-making body of the NEA is the Representative Assembly, which is comprised of roughly 7,500 elected member delegates from state and local affiliates, and student, retired, school nurse, higher education, and educational support members.

At its annual meeting, the Representative Assembly considers resolutions which have been drawn up by its Resolutions Committee, whose 130 members are also elected. Resolutions proposed by the Resolutions Committee are debated and acted upon by the Representative Assembly and provide the basic policy framework for the organization.

When the Representative Assembly is not in session, NEA's 9-member Executive Committee and 130-member Board of Directors have the responsibility for guiding and interpreting NEA policy. NEA executive officers, elected by the Representative Assembly, are the principal spokespersons for NEA policy.

The NEA's governance structure ensures one of the highest levels of democracy and member input in the policy-making process found in any labor organization in the United States. Major policy questions are decided upon only after considerable debate and discussion has taken place. While this process ensures democratic representation, it does take time. This has proven frustrating for policy-makers and political officials in this current wave of reform.

Actually, it is perhaps more appropriate to speak of two waves of reform. The first, immediately following the publication of A Nation at Risk, was marked by the promotion of alternative compensation initiatives at the level of individual state legislatures.

Typical of these reform efforts are the job ladder (or master teacher) programs mandated by the Florida and Tennessee legislatures. While their ostensible focus is compensation, job ladder schemes represent an initial foray into the organization of the teaching profession. Job ladder compensation systems split the single job of teaching into hierarchically ordered positions.

The new wave of reform just beginning to break targets professional standards as a principal object of reform. New areas of attention include teacher education, teacher testing, certification, and recertification.

I'm not saying the reformers have given up on alternative compensation systems or the structure of the teaching profession. These continue to be focal points for elements of the reform movement. What we're looking at is simply a widening of the field in which educational reformers are working.

In large measure, we're dealing with the same people. The difference is that state policy-makers working in disparate areas have now organized themselves into a national network through organizations such as the Education Commission of the States and the National Governors' Association. A few examples should illustrate this.

Governor Kean of New Jersey, a member of the Carnegie Task Force on Teaching as a Profession, has been chairman of the Education Commission of the States and the National Governors' Association Teaching Task Force.

Lamar Alexander, Governor of Tennessee and a proponent of career ladders, became chairman of the Education Commission of the States in 1985 -- the precise time the Education Commission of the States began promoting alternative compensation and alternative certification.

This year, Governor Clinton of Arkansas will become chairman of the Education Commission of the States and the National Governors' Association Teaching Task Force. Clinton is a proponent of teacher testing and restructuring the teaching profession as well as recertification.

All of the major policy groups mentioned have issued or will soon issue reports calling for radical change in the organization of the profession. Clear lines of communication exist between state political officials and national policy groups.

Although claiming to be promoting greater autonomy for teachers, the common thread running through individual reform efforts is their clear intention to gain greater control over the teaching profession.

Proposed changes in the system of compensation are likely to effect greater control over the activity of teaching. Proposed changes in teacher education, certification, and teacher testing promise far-reaching change in the supply of teachers and the nature of the profession.

The key factors to be considered in any change process are the agents directing the process and the ends toward which the process is being directed. By these indicators, the proposals generated by reform efforts

thus far leave a great deal to be desired, both from the perspective of teachers and the educational process.

Proposals to overhaul teacher compensation systems target the individual teacher as the principal object of change. This can be seen most clearly in merit pay and job ladder compensation systems.

In merit pay systems, individual teachers receive financial supplements as a result of administrative judgments about their performance relative to the performance of others. In job ladder systems, the job of teaching is broken down into component parts, which carry differential degrees of responsibility. Teachers occupying jobs with additional responsibility receive additional compensation.

These compensation systems are strongly reminiscent of Frederick Taylor's principles of scientific management which swept through American schools and factories from the second decade of the twentieth century onward. Taylorist compensation systems, designed for a limited number of industrial settings have been applied uncritically to schools.

Incentive pay systems as adopted by industry view sloppy and inefficient performance by the individual worker as a primary cause of waste in the production system. Workers are regarded by managers as basically undisciplined and in need of greater control.

To ensure maximum output, incentive systems pay individual workers a bonus above a base wage rate if they produce above set rates for individual jobs. Motivation to perform is viewed as extrinsic to the individual. Substitute teacher for worker, school for factory, administrator for manager, and administrative judgment for performance record and you have the principal ingredients of merit pay.

The question now and then is this: Can what sometimes works in factories be moved into classrooms without creating major problems? The dramatic decline of merit pay systems in this century in education hints at a fundamental problem in using financial incentives to improve teaching performance.

In 1918, at the height of the movement to institute scientific management in schools in response to growing public criticism, 48 per cent of school districts had a system of compensation they identified as merit pay. This number dwindled to 18 per cent by 1928. Before the launch of Sputnik in the late 1950's, only a handful of districts used merit pay. However, a perceived foreign threat prompted a renewed public call for efficient and effective schools.

During the 1960's, over 10 per cent of school districts in the United States used merit pay. This number was halved by the early 1970's and was recently estimated to be less than 1 per cent.

The reason for merit pay's poor track record is simply that it doesn't work. It destroys the collegial environment so necessary for effective schools and effective teaching. Merit pay systems force teachers to compare themselves with one another and create a structure in which one teacher's reward produces another teacher's punishment.

Merit pay is only available to a small fraction of an individual district's teachers. It thus draws clear lines of distinction among members of a teaching force. Rather than motivating some teachers to perform better, it often has the effect of demotivating teachers who do not receive merit increases. And, it serves to discourage young people from entering the teaching profession insofar as it presents the prospect of uneven and uncertain future rewards.

By drawing status and responsibility distinctions among teachers where none had existed before, job ladders disrupt collegial relationships among teachers and thus have a negative effect on the educational environments. Problems induced by job ladders in the school environment have been amply documented in those states such as Florida and Tennessee where legislatures have mandated the introduction of job ladder systems.

Part of the difficulty teachers have experienced with job ladders stems from the selection process. This can range from quixotic to downright ludicrous. In North Carolina in 1984, 850 out of 4,200 teachers in the Charlotte-Mecklenburg school district qualified for promotion under a new "career ladder" plan.

Since the Board of Education had enough money to pay only 150 of these teachers, qualified teachers entered a lottery. The names of the district's top professionals were drawn out of a hat in full view of whirring TV cameras. This has given new meaning to the term, "the lot of a teacher".

In job ladders, as in many forms of Taylorist work organization, task conception is rigidly separated from task execution. In schools with job ladder systems, the removal of the capacity to make certain kinds of decisions from classroom teachers (a kind of de-skilling process) is coupled with additional supervision.

Early in the twentieth century in America's factories, the fragmentation and automation of the work of craftsmen produced the same separation of task conception and task execution with the same intervening layers of supervision. The province of the craftsman's knowledge of the production process was gradually annexed and eventually incorporated into the kingdom of the engineer.

Taylorism usurped the power and importance of the individual craftsman by making superfluous the craftsman's knowledge of the production process. Substitute teacher for craftsman and master teacher for engineer and you have the principal ingredients of some job ladder plans. In others, master teachers occupy the place of additional supervisory personnel.

The important point to be made here is that some plans designed to professionalize teaching will actually remove skills from most teaching jobs, restricting the range of decision-making and de-valuing work in the classrooms.

In addition to this, merit pay and job ladders plans are more expensive and cumbersome to administer. Research in Canadian schools revealed

that the administrative costs of merit pay plans may run as much as 18 per cent higher than administrative costs of single salary schedules.

Another form of compensation adopted from the corporate sphere is market sensitive pay. The reasoning behind market sensitive pay goes something like this: If you have a shortage of teachers in one subject area as a result of external demand, you can attract additional teachers to these areas by offering greater financial rewards. After all, business does this all the time.

Unfortunately, this will not create a stable work force. External labor markets change constantly. In addition, market sensitive pay could have a potentially destructive effect on the school environment as teachers with identical levels of responsibility are paid more by virtue of their subject area.

Rather than accepting stopgap measures such as these, teacher's organizations should use current shortages to highlight the need for increased compensation for all teachers.

The uncritical incorporation of business practices in the public schools has been unfortunate, but understandable. Not surprisingly, the periods in which business concepts are applied to education have been times of trial and low public confidence in the institution of public education.

Business practices may not work, but they provide politicians and administrators with ready currency for the public. In the exchange between reformers and the general public, financial incentives become capable of inducing superior performance, efficient work organization combines a more complex division of labor with heavier supervision, and readily available, but misleading indicators such as student test scores become the measures of teacher accountability.

This ready currency encourages short-term fixes -- the political official's panaceas. It is a difficult environment in which to retain those elements of school structure that have proven track records (like the single salary schedule). It is also a difficult environment in which to initiate change. Yet, that is where we find ourselves now.

The NEA continues to believe that the single salary schedule is the most equitable form of compensation available to teachers, that it rewards both education and experience, and that it is both inexpensive and relatively simple to administer.

As you know, NEA policy opposes merit pay. We oppose as well other forms of compensation which undermine the educational environment or bypass the collective bargaining process. However, NEA policy does accommodate the Association's need to provide technical assistance and consultation to individual states who are either presently facing a legislative mandate to develop and implement an alternative compensation model or are likely to be facing such legislation in the near future.

In these cases our efforts have been guided by the needs of the affiliate in question and subject entirely to their policies and programs. One such program is career development, which will be implemented in selected districts in Idaho and Arizona.

Career development defines teaching as an occupation composed of three roles and three functions. The roles of teaching are instruction, classroom management, and counselling. The functions of teaching are planning, implementation, and evaluation.

Each role includes planning, implementation, and evaluation. For example, the instructional role includes instructional planning, instructional implementation, and instructional evaluation. The interaction of the roles and functions identify nine skill areas, which define the work that teachers do.

Career development describes teaching as a career, which develops in three principal stages. These are establishment, adaptation, and extension. Each skill area thus has three levels of expertise.

Compensation in career development is a function of experience, education, and professional growth. There are no quotas in career development systems. No teacher will be preempted from attaining a particular level within the system so no disruption of collegial relationships is anticipated as is the case in job ladder or merit pay systems.

Research on the concept began in 1983. The idea is crucial for offering a potential means to solve the retention problem in teaching, which has been largely ignored in the foment of educational reform.

Career development has a clear definition of the job of teaching, a developmental sense of a career in teaching, a skill-based orientation to professional growth, and a focus on decision-making by teachers at the school level. These components are integrated into a single framework that promotes teaching as an occupation and a career, fosters skill growth for teachers, and preserves the idea that teaching is a single occupation.

So far, we've touched upon efforts which aim to improve the educational process by redesigning the compensation structure for individual teachers. What educational reform efforts have ignored thus far are the complex relationships between teachers and their teaching environments. Yet, the learning workplace presents one of the main stumbling blocks to meaningful improvements in the educational system.

Research on teaching has shown teachers often lack adequate resources to perform effectively in the classroom. This means that even if they are highly motivated, even if they have been subjected to an enormous battery of tests before entering the classroom, and even if they are a part of a fortunate minority receiving financial supplements, they are likely to experience continual frustration in carrying out their daily responsibilities.

Over time, the mismatch between a teacher's intentions and the results achieved in the classroom will demoralize the teacher. As one teacher put it, "Teachers don't start burned out. They get burned out." This, even more than the type or amount of compensation, is why 50 per cent of American teachers leave within five years.

In the Spring of 1985, the NEA conducted a nationwide survey involving almost 1,800 teachers. This survey represents the first national effort to identify empirically the specific problems teachers have with the working conditions of schools. The resources identified by the study have long been sought by teacher members of the NEA and have been specifically drawn from the research on effective schools and organizations.

Teachers need time and adequate space to perform their teaching responsibilities. Yet, over half of the teachers responding experienced problems finding sufficient time for counselling and grading. Almost half often experienced time problems in planning instruction.

Teachers need materials, equipment, and money for supplies. 40 per cent of those responding to the survey experienced at least occasional problems with the quantity and quality of equipment, supplies, and materials. 20 per cent often experienced problems obtaining money for supplies.

Teachers need support for the acquisition and refinement of the skills needed to perform their responsibilities effectively. Over half of the teachers surveyed had some difficulty with the quantity and quality of development activities.

Teachers need others' help in order to accomplish their jobs. Yet, about 50 per cent of teachers experienced problems with the quantity and quality of assistance from building-level administrators, staff specialists, and custodial staffs.

Teachers must have the acknowledged right to make or influence certain decisions related to their tasks and responsibilities. An astonishing 75 per cent of teachers said they had little opportunity to participate in the following types of decisions: Organizational policies, student-teacher policies (e.g., discipline codes and grading policies), staff development and self-evaluation policies, work allocation, and the decisions surrounding the teaching process (what to teach, how to teach, and what texts to use).

This is particularly disturbing in light of the strong relationship between the power to make decisions and both job satisfaction and organizational commitment.

Recent educational reform efforts have failed largely because teachers were not included in the change process, because state legislative mandates undermined the collective bargaining process, and because insufficient attention was given to both the job of teaching and the educational environment.

The collective bargaining process is the most effective way to induce lasting and productive change in schools. Through it, teachers' interests can be represented and their own proposals for change considered. I'd like to outline a five point program for collective bargaining that takes up some of the issues we've been dealing with here.

One, local autonomy must be recognized as a central principle of teacher collective bargaining. There are significant variations in the bargaining environment as one moves from district to district. These must be considered in formulating bargaining goals and strategies.

Two, community involvement in the educational process must be encouraged. Teachers can secure significant support for their bargaining goals from the larger community, provided they inform community members of the strong relationship between bargaining goals and the educational process.

Three, teachers must be given additional scope for decision-making. They must be given the authority to exercise their professional responsibilities effectively.

Four, teacher bargaining must renew its interest in the learning workplace. Reform efforts which look only at compensation and not the conditions necessary for effective teaching will produce dissatisfied teachers and unsatisfactory educational efforts.

Five, as teachers gain additional decision-making responsibility, collective bargaining may involve negotiating the process by which change is effected as opposed to predicating fixed outcomes. That is, collective bargaining may involve setting up structures which involve teachers in decision-making processes after formal bargaining has been concluded. This is purely speculative at this point, however.

To sum up, the five points are local autonomy, encouragement of community involvement in the educational process, additional scope for teacher decision-making, renewed interest in the work environment, and negotiation of the change process.

If you take the first letter of each point and put them together, they spell LEARN. Through this approach to collective bargaining, administrators and the general public can learn what conditions are required to produce effective teaching and effective schools and to create the conditions in which students can learn.

The job of teaching and the educational work environment must be understood on their own terms rather than in the terms of corporate organization and political expediency. Most importantly, teachers and their organizations must continue their work of formulating a blueprint for the future that is founded on this understanding. In this way, the interests of both the profession and the educational process can be advanced. Thank you.

IMPLICATIONS OF NEW TRENDS IN COLLECTIVE BARGAINING AND COMPENSATION

JIM BETHUNE
Ontario Secondary School Teachers' Federation

The task I have been given is that of a discussant. I am not quite sure what that means and I want no play on words. What I find fascinating about this morning, and as usual I will lapse into an historical context, is that almost 20 years ago the Federation sent me to study collective bargaining for teachers in the United States. I visited the NEA and AFT in Washington, the United Federation of Teachers in New York and the Philadelphia Federation of Teachers in Philadelphia.

I was told quite definitely by one group that collective bargaining was not really appropriate in education. Consultation or professional negotiation was really all that was necessary and we would be able to make our impact because we were such important professionals. Furthermore, collective bargaining, I was told, is a very messy and imprecise science. They don't pay enough attention to empirical research and they tend to ad hoc it. I was to be very careful not to go down to the fourth floor of the NEA building to meet the collective bargaining people because they were messy and sloppy. I then went to New York and I was told that collective bargaining was the only answer, straight industrial model, everything to be quantifiable and the professionalism would come later. I went to Philadelphia and was told that the only answer was to strike until they fixed it.

Somewhat bemused by all this I came back to Canada, scratched my head and reported to my committee and to the Federation that somewhere in the middle there had to be an answer. For the last 20 years I have been stuck with trying to find it for secondary teachers in Ontario.

I am not going to call this a debate because I think that both organizations like ourselves in Canada are reasserting those things which we have all believed in all these years and that is our true and valid claim to be professionals, our true and valid claim for autonomy. We have been very lucky in Canada that we have been able to maintain a high degree of autonomy for our teachers. I don't think our elementary teachers have as much autonomy as they should, but our secondary teachers have made considerable gains in autonomy. That is an ongoing struggle which we have to continue.

What worries me in this so called reform is the matter of advocacy. I direct you to the November 1985 Scientific American which contains a discussion on advocacy and why elderly people in the United States had managed to be so successful in the introduction of social welfare programs while education had not. The obvious contention was that old people have votes, money and property but children don't have a lot of friends. Therefore, if this movement is to succeed, it will have to have friends. I am not sure, as my colleagues from the States are not sure, who their friends are.

There must be a healthy level of cynicism applied to this reform. I am not as cynical as the National Education Association about it, nor am I

as optimistic as the American Federation of Teachers. That is because I am a Canadian and ultra conservative. Canadians don't take chances. What bothers me about the problem is the hierarchy of education, that strange anomaly that the better teacher you are, the less kids you teach. I have always found that a really strange thing. You are a good teacher and they make you an assistant head. You become a better teacher and they make you a head. I am talking about high school so you will have to forgive me. Then they make you a vice-principal and you have fewer and fewer kids. Eventually, when you are utterly stupid, they make you a superintendent on the basis of the fact that you were a good teacher.

Now somehow the movement seems to say: "Let's get the resources back in the classroom." I am going to offer an alternative which I haven't thought through entirely, but which is based on our Canadian experience to a certain extent, particularly Ontario and my own Federation. To get the resources back in the classroom, one must get control of teacher certification. I think that is the answer. You can't solve a problem by throwing money at it, but you can solve a problem by guaranteeing certain standards. The success in Canada has been that the teachers' federations have guaranteed certain standards through professional development and through control of certification.

The OSSTF has been particularly successful because it grabbed hold of certification in 1958. We said that the teacher licenses handed out by the state were the minimum standard. The profession will now add enhancements and the teachers' salaries will be based on those enhancements. I was disappointed that we were never able to expand that certification system to take more into account what the teacher did in the classroom. We stuck pretty closely to the academic achievements of the teacher, but the standard was guaranteed. I don't think any organization will be allowed to grab control like that now. Government is too wary of what happens.

We must intrude ourselves into teacher certification and I think that is one of the problems in the United States. Marilyn spoke about the lower quartile of candidates going into the teaching profession. That is because the States, and the universities particularly, have been allowed to control certification. American salaries are based on university hours plus. The profession, in my view, has not intruded itself sufficiently into teacher certification.

The other area where I think attention has to be paid is in the negotiations of working conditions and both my colleagues mentioned those. The negotiation of preparation time is not the negotiation of teacher autonomy. What must be negotiated is only the teaching time -- not preparation time but unassigned time -- so that the teacher is free in the unassigned period to do whatever he or she professionally decides to do. That is the autonomy we should be looking for. A teacher should be able to go to the bank or to the dentist in the middle of the day. Other people can do it, why can't we. Therefore, I think we must again put on a big initiative into working conditions. Assigned and unassigned time has to be a major thrust.

Coupled with that, if we are going to maintain our claim as professionals we are going to have to intensify our activities in the area of excellence in education. At last teachers across this country are making statements about how good our schools are. Our teachers are good and we have to keep saying that.

The "adopt-a-school" initiative in New York State is very heartwarming in one way, but annoying in another way. The community should support the schools as it always has done, properly through taxation. Adopting the school is a nice initiative from an excellence in education point of view, but from the point of view of public responsibility to the educational system through taxation, it is a cop out.

To summarize my discussion, I think we have to look very hard at who our friends are. We have to pay attention to advocacy. We have to pay attention to negotiating working conditions for autonomy of the teacher and I mean unassigned time. We have to do something about the resources so that the hierarchy of education does not take the best teachers out and put them into non-productive jobs. As well, I would hope that CTF at its next Annual Meeting will endorse excellence in education programs and encourage the affiliates to push hard for excellence in education programs. I think that they go hand in hand with good collective bargaining and they are the way to remind the public of its responsibility. With fewer and fewer members of the public having children, its sense of responsibility to the education system is waning. We must remind all members of the public that a strong educational system is not only essential but is their responsibility, whether they have children or not.

APPENDIX

SUMMARY OF EVALUATIONS

Total Number of Evaluations: 39
Number of Replies: 16 Representing a Response of: 41%

1. General Evaluation

Most respondents felt that the seminar was useful, especially as a forum for interaction with representatives from across Canada. Almost half of the respondents (7 out of 16) found the small discussion groups to be the most useful aspect and the other half (7 out of 16) found the session with the speakers from the AFT and NEA most informative and worthwhile. Nearly half of the respondents (7 out of 16) indicated that the session on the Charter of Rights focussed too much on sexual inequality.

2. Program Design and Content

Most respondents found the program design and content good. A few felt that less time should have been spent in group discussions. One respondent felt that more detailed and "topic-specific" background material would prevent the small groups from slipping off topic into broad, general discussion. One respondent expected more of a "hands-on" approach to collective bargaining and another felt a session should have been devoted to comparing the current bargaining climate in the various provinces and territories.

3. Background Materials

Most respondents found the background material good. A few mentioned that they enjoyed in particular the OSSTF videos on collective bargaining. One respondent would have appreciated more advance information about the conference topics. Another respondent suggested that notes of the major presenters might be made available to delegates before the conference.

4. Physical Arrangements

All respondents found the physical arrangements satisfactory.

5. Follow-up Suggestions

One respondent felt that the targets of the conference should be more specific. For example, the participants should attempt to arrive at some degree of consensus on one or two specific issues. Another respondent felt the conference should be an annual event. A few of the respondents offered the following suggestions for program design of future seminars:

- allow less time for each discussion group session
- cancel luncheon arrangements to allow participants more free time

- since staff and elected people have complimentary but different experiences have one concurrent session where these two groups could meet separately.

The respondents offered a number of suggestions for themes and session topics at future CTF seminars as well as proposals for research and analysis which CTF might undertake.

Themes and Specific Topics for Future CTF Seminars

- Collective bargaining techniques
- Attainable goals in collective bargaining in the light of trends in public opinion, funding, etc.
- Sessions on the psychology of negotiations (e.g., based on Getting to Yes by Fisher and Ur)
- Future session topics could include class size, pupil teacher ratios, programs, role of support staff, e.g., library technicians, special needs assistants, etc.
- Discussion of cross-Canada priorities in bargaining
- In-depth focus on the impact of the Charter on unions -- right to organize, freedom of speech, dues, job security provisions v. Charter, etc., and reviewing specific challenges in detail
- National conference on computer use/automation, national network
- Presentation on unemployment insurance

Research Projects

- Maintain current comparative data
- Impact of technological changes, e.g., to ensure that no teacher is adversely affected by computers
- Specifics as to the impact of the Charter of Rights and Freedoms on collective bargaining terms and language, i.e., Section 15(1) and (2)
- Implications for no-recrimination clauses, i.e., after sanction action can union internally "penalize" those who violated strike action?
- Need clausal language that would protect those who supported sanction action from Board action, but allow union to "penalize" those who did not support sanction
- Cross-Canada fringe benefits comparisons
- Exchange of information re current bargaining climate
- Documentation of the trend to more workload clauses in collective agreements
- CTF computer clearinghouse for arbitration awards and court cases re teachers -- accessible by computer on a user pay basis